REMARKS

In the Office Action, Claims 51-56 and 58-67 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by Everhart et al. (U.S. Patent Number 6,221,579) (Everhart '579); Claims 51-56 and 58-67 were also rejected under 35 U.S.C. §102(e) as allegedly anticipated by Everhart et al. (U.S. Pat. No. 6,180,288) (Everhart '288); Claims 51-56 and 58-67 were also rejected under 35 U.S.C. §102(e) as allegedly anticipated by WO 01/44813 (WO '813); Claims 51-56 and 58-67 were further rejected under 35 U.S.C. §102(b) as allegedly anticipated by Everhart et al. (U.S. Patent Number 6,060,256) (Everhart '256); Claims 51-56 and 58-67 were also rejected under 35 U.S.C. §102(b) as allegedly anticipated by Everhart et al. (U.S. Patent Number 6,048,623) (Everhart '623); Claims 51-56 and 58-67 were also rejected under 35 U.S.C. §102(b) as allegedly anticipated by Everhart et al. (U.S. Patent Number 6,020,647) (Everhart '647); Claims 51-56 and 58-67 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by Everhart et al. (U.S. Patent Number 5,922,550) (Everhart '550); and Claim 57 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Everhart '579, Everhart '288, WO '813, Everhart '256, Everhart '623, Everhart '647 or Everhart '550 in view of Douglas et al. (U.S. Patent Number 5,948,695).

As an initial matter, Applicants wish to thank Examiner Alexander for his time on October 5, 2006, to discuss the present application.

Based on the discussion, Applicants have amended Claims 51 and 68 and added Claims 70-72 as indicated herein. Upon entry of this Amendment, Claims 51-72 will be pending. Of these claims, Claims 51, 68 and 72 are independent claims.

Applicants respectfully submit that amended Claims 51 and 68, for instance, are patentable over the cited combination of references. Claims 51 and 68 each recite in pertinent part a fluidic guide that is in direct communication with a substrate, wherein the fluidic guide defines an opening therein and includes at least one channel through which a fluid test sample is capable of flowing via capillary action, and an electromagnetic radiation source that is configured to direct electromagnetic radiation to the substrate through the opening for generating a diffraction pattern proximate an area of the substrate defined by the opening. Applicants respectfully submit that the Everhart et al. references and the Douglas et al. reference do not teach or disclose each and every element recited by Claims 51 and 68.

As admitted by the Office Action and as discussed with Examiner Alexander, the Everhart et al. references do not teach how a sample is applied and do not teach a fluidic guide nor means for venting. More specifically, the Everhart et al. references do not teach a fluidic guide that is in direct communication with a substrate, wherein the fluidic guide defines an opening therein and includes at least one channel through which a fluid test sample is capable of flowing via capillary action, and an electromagnetic radiation source that is configured to direct electromagnetic radiation to the substrate through the opening for generating a diffraction pattern proximate an area of the substrate defined by the opening.

Also as discussed with Examiner Alexander, Douglas et al. does not add to the Everhart et al. references. Douglas et al. at least does not teach a fluidic guide that is in direct communication with a substrate, wherein the fluidic guide defines an opening therein and includes at least one channel through which a fluid test sample is capable of

flowing via capillary action, and an electromagnetic radiation source that is configured to direct electromagnetic radiation to the substrate through the opening for generating a diffraction pattern proximate an area of the substrate defined by the opening. Moreover, as shown in FIGURE 6 of Douglas et al., the membrane (5), for instance, would prevent electromagnetic radiation from being directed to a substrate through an opening for generating a diffraction pattern proximate an area of the substrate defined by the opening. Thus, Applicants respectfully submit that Douglas et al. and the Everhart et al. references do not render Claims 51 and 68 unpatentable.

Applicants respectfully submit that new Claims 70 and 71, respectively dependent upon Claims 51 and 68, add no new matter and do not require a new search by the Examiner. Accordingly, Applicants respectfully request that the rejections to Claims 51 and 68 be withdrawn and Claims 51-71 be allowed.

Applicants respectfully submit that new Claim 72 is also patentable over the cited combination of reference, does not add new matter and does not require a new search by the Examiner. See, e.g., FIG. 8 of the present application. Claim 72 requires in part a wicking agent defining a hole therethrough and capable of receiving a fluid test sample from a fluidic guide and thereafter facilitating contact of the fluid sample with a binder on the substrate; and an electromagnetic radiation source that is configured to direct electromagnetic radiation to the substrate through the hole for generating a diffraction pattern proximate an area of the substrate defined by the hole. Applicants respectfully submit that the cited combination of reference fails to teach each and every element of Claim 72. Thus, Applicants respectfully request that Claim 72 be allowed.

The Examiner is encouraged to contact the undersigned at his convenience should he have any questions regarding the present Amendment.

Please charge any additional fees or credit any overpayment required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,
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